

## **REMARKS**

Claims 1-24 are pending in the present application, with claims 1, 10, 12, 13, 22, and 24 being independent. Claims 1 and 13 are presently amended.

### ***Allowable Subject Matter***

Initially, Applicant appreciates the Examiner's indication that independent claims 12 and 24 are allowed, and claims 2-7, 11, 14-21 and 23 would be allowed if rewritten into independent form and to overcome the 35 USC 112, 2<sup>nd</sup> paragraph rejection (in the case of claims 2-7 and 14-21). In view of the presently filed amendments and the remarks below, Applicant respectfully submits that all claims are now allowable.

### ***Specification Objection***

The specification has been objected to for including a hypertext link. By the present Amendment to paragraph [0043], the hypertext link has been removed. Accordingly, Applicant respectfully requests that the Examiner withdraw the objection.

### ***35 U.S.C. §112, 2<sup>nd</sup> Paragraph***

Claims 1-9 and 13-21 stand rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter Applicant regards as the invention.

In particular, the Examiner alleges that the claim term "said period of silence exceeds a predetermined time duration" is ambiguous with regard to whether "said period of silence" refers to "periods of silence" or "one or more extended silence

periods". The Examiner has suggested that the allegedly ambiguous claim language be changed to read as "said extended silence period exceeds a predetermined time duration".

By the present Amendment, Applicant has adopted the Examiner's suggested claim language. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

***35 U.S.C. §102(e) - Gregson***

Claims 1, 8-10, 13 and 22 have been rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 7,072,305 ("Gregson"). Applicant respectfully traverses this art grounds of rejection.

Gregson is directed to a method and apparatus for analyzing a communications network link. The Examiner points to Figures 5 and 6 and their description in column 8, lines 30-38 as allegedly anticipating the "examining" and "introducing" steps of independent claim 1.

Figure 5 of Gregson illustrates a stream of data having a silent period 510 where no data is scheduled to be transmitted from customer equipment 150 within the network 100 (See Figures 1 and 5, and column 8, lines 20-34 of Gregson). Figure 6 illustrates the same data stream as Figure 5, except in Figure 6 the silent period 510 is replaced by data bits 610 (See Figure 6, and column 8, lines 35-53 of Gregson). The data bits 610 are injected into the silent period 510 to increase the amount of traffic that can be transmitted from customer equipment 150 over the network 100. In Gregson, silent periods are only mentioned in context with Figures 5 and 6 and column 8, lines 20-53.

From a review of this portion of Gregson, Gregson does not appear to disclose or suggest any threshold length for the silent period that would trigger data injection, but rather appears to disclose injecting data indiscriminately within any silent period.

Turning to independent claims 1 and 13, the claims recite more than merely injecting data into a silent period of indeterminate length. For example, independent claims 1 and 13 recite determining “one or more extended silence periods wherein said extended silence period exceeds a predetermined time duration” and “introducing a keep-alive signal packet into each of said extended silence periods” (Emphasis added). Gregson does not appear to make this determination of exceeding a predetermined time duration.

Thus, Gregson does not disclose or suggest determining “one or more extended silence periods wherein said extended silence period exceeds a predetermined time duration” (Emphasis added) as recited in independent claims 1 and 13 because, as discussed above, Figures 5 and 6 of Gregson and the description thereof describe an indiscriminate data injection process that is not based on the length of the silent period 510 to receive the injection.

Further, independent claims 1, 10, 13 and 22 recite the introduction of a “keep-alive” signal packet into a packet sequence. The injected data methodology disclosed by Gregson cannot be said to introduce “a keep-alive signal packet” into a packet sequence. As discussed above, Gregson’s purpose for injecting data into the silent period is to actually send the data, not to keep a communication link “alive” or active. In other words, Gregson does not disclose or suggest that a silent period above a certain length would drop the communication link, such that injecting data would keep that link

“alive”. With the absence of such a teaching, the injected data merely fills in the gaps created by the silent periods 510 but would otherwise have no effect on the communication link. Additionally, this feature cannot be said to be inherent because communication links are not necessarily dropped in response to a silent period (even a silent period of great length).

Accordingly, Gregson also fails to disclose or suggest introduction of “a keep-alive signal packet” into an original packet sequence, as recited in independent claims 10 and 22.

Claims 8-9 depend upon independent claim 1 and should be considered allowable over Gregson for at least for the reasons given above with respect to independent claim 1.

Applicant respectfully requests that the Examiner withdraw this art ground of rejection.

Reconsideration and issuance of the present application is respectfully requested.

### CONCLUSION

Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned at 1.703.621.7140 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3828 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully Submitted,

  
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